

Todd M. Friedman (SBN 216752)
 Nicholas J. Bontrager (SBN 252114)
 LAW OFFICES OF TODD M. FRIEDMAN, P.C.
 369 S. Doheny Dr., #415
 Beverly Hills, CA 90211
 Phone: 877-206-4741
 Fax: 866-633-0228
 tfriedman@attorneysforconsumers.com
 nbontrager@attorneysforconsumers.com

Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF CALIFORNIA**

JORDAN FRIEDMAN, individually, and on behalf of all others similarly situated, Plaintiff,)	Case No. <u>'12CV2837 IEG BGS</u>
)	
)	<u>CLASS ACTION</u>
)	
vs.)	COMPLAINT FOR VIOLATIONS OF:
)	
)	THE TELEPHONE CONSUMER
)	PROTECTION ACT [47 U.S.C. §227 ET
TORCHMARK CORPORATION, UNITED)	SEQ.]
AMERICAN INSURANCE COMPANY, and)	
DOES 1 through 10, inclusive, and each of)	
them,)	<u>DEMAND FOR JURY TRIAL</u>
)	
Defendants.)	
)	
)	
)	

Plaintiff, Jordan Friedman (“Plaintiff”), on behalf of himself and all others similarly situated, alleges the following upon information and belief based upon personal knowledge:

NATURE OF THE CASE

1. Plaintiff brings this action for himself and others similarly situated seeking damages and any other available legal or equitable remedies resulting from the illegal actions of Torchmark Corporation and United American Insurance Company (“Defendants”), in negligently, knowingly, and/or willfully placing sales, solicitations and/or other telemarketing calls to Plaintiff’s residential telephone despite Plaintiff being registered with the National Do

1 Not Call Registry and in violation of the Telephone Consumer Protection Act, 47 U.S.C. § 227
2 *et seq.* (“TCPA”), thereby invading Plaintiff’s privacy.

3 **JURISDICTION & VENUE**

4 2. Jurisdiction is proper under 28 U.S.C. § 1332(d)(2) because Plaintiff, a resident
5 of California, seeks relief on behalf of a Class, which will result in at least one class member
6 belonging to a different state than that of Defendant, a company with its principal place of
7 business and State of Incorporation in Virginia state. Plaintiff also seeks \$500.00 in damages
8 for each call in violation of the TCPA, which, when aggregated among a proposed class in the
9 thousands, exceeds the \$5,000,000.00 threshold for federal court jurisdiction. Therefore, both
10 diversity jurisdiction and the damages threshold under the Class Action Fairness Act of 2005
11 (“CAFA”) are present, and this Court has jurisdiction.
12

13 3. Venue is proper in the United States District Court for the Southern District of
14 California pursuant to 18 U.S.C. 1391(b) and 18 U.S.C. § 1441(a) because Defendant does
15 business within the state of California and the San Diego County.
16

17 **PARTIES**

18 4. Plaintiff, JORDAN FRIEDMAN (“Plaintiff”), is a natural person residing in
19 California and is a “person” as defined by 47 U.S.C. § 153 (10).
20

21 5. Defendant, Torchmark Corporation (“Defendant” or “Torchmark”), is a
22 nationwide “holding company” specializing in life and supplemental health insurance for
23 “middle income” Americans marketed through multiple distribution channels and is a “person”
24 as defined by 47 U.S.C. § 153 (10).

25 6. Defendant, United American Insurance Company (“Defendant” or “United”), is
26 a “major subsidiary” of Defendant Torchmark and operates in forty-nine (49) states selling,
27 servicing and maintaining health, life and accident insurance policies for consumers
28 nationwide.

1 maintained a business relationship with Defendants within eighteen (18) months of receiving
2 Defendants' calls

3 20. Defendants, their employees and agents are excluded from The Class. Plaintiff
4 does not know the number of members in The Class, but believes the Class members number in
5 the thousands, if not more. Thus, this matter should be certified as a Class Action to assist in
6 the expeditious litigation of the matter.

7 21. The Class is so numerous that the individual joinder of all of its members is
8 impractical. While the exact number and identities of The Class members are unknown to
9 Plaintiff at this time and can only be ascertained through appropriate discovery, Plaintiff is
10 informed and believes and thereon alleges that The Class includes thousands of members.
11 Plaintiff alleges that The Class members may be ascertained by the records maintained by
12 Defendants.

13 22. Plaintiff and members of The Class were harmed by the acts of Defendants in at
14 least the following ways: Defendants illegally contacted Plaintiff and Class members via their
15 personal telephones despite Plaintiff and The Class invoking their rights afforded by the
16 National Do Not Call Registry to be free of unwanted telemarketing calls at their private
17 residences, thus invading the privacy of said Plaintiff and Class members.

18 23. Common questions of fact and law exist as to all members of The Class which
19 predominate over any questions affecting only individual members of The Class. These
20 common legal and factual questions, which do not vary between Class members, and which
21 may be determined without reference to the individual circumstances of any Class members,
22 include, but are not limited to, the following:

- 23 a. Whether, within the four years prior to the filing of this Complaint,
24 Defendants made any sales or solicitation call (other than a call made for
25 emergency purposes or made with the prior express consent of the called
26 party) to a Class member who had registered his or her telephone on the
27 Do Not Call Registry and who did not have a business relationship with
28 Defendants within eighteen (18) months prior to receiving said calls;

b. Whether Plaintiff and the Class members were damages thereby, and the extent of damages for such violation; and

c. Whether Defendants should be enjoined from engaging in such conduct in the future.

24. As a person that received sales/solicitation calls from Defendants on a telephone number registered with the Do Not Call Registry and who had no previous business relationship with Defendants, Plaintiff is asserting claims that are typical of The Class.

25. Plaintiff will fairly and adequately protect the interests of the members of The Class. Plaintiff has retained attorneys experienced in the prosecution of class actions under the Telephone Consumer Protection Act.

26. A class action is superior to other available methods of fair and efficient adjudication of this controversy, since individual litigation of the claims of all Class members is impracticable. Even if every Class member could afford individual litigation, the court system could not. It would be unduly burdensome to the courts in which individual litigation of numerous issues would proceed. Individualized litigation would also present the potential for varying, inconsistent, or contradictory judgments and would magnify the delay and expense to all parties and to the court system resulting from multiple trials of the same complex factual issues. By contrast, the conduct of this action as a class action presents fewer management difficulties, conserves the resources of the parties and of the court system, and protects the rights of each Class member.

27. The prosecution of separate actions by individual Class members would create a risk of adjudications with respect to them that would, as a practical matter, be dispositive of the interests of the other Class members not parties to such adjudications or that would substantially impair or impede the ability of such non-party Class members to protect their interests.

28. Defendants have acted or refused to act in respects generally applicable to The Class, thereby making appropriate final and injunctive relief with regard to the members of the Class as a whole.

FIRST CAUSE OF ACTION
Violations of the Telephone Consumer Protection Act
47 U.S.C. §227 et seq.

29. Plaintiff repeats and incorporates by reference into this cause of action the allegations set forth above at Paragraphs 1-28.

30. The foregoing acts and omissions of Defendants constitute numerous and multiple violations of the TCPA, including but not limited to each and every one of the above cited provisions of 47 U.S.C. § 227 et seq.

31. As a result of Defendants' violations of 47 U.S.C. § 227 et seq., Plaintiff and the Class Members are entitled an award of \$500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(c)(5)(B).

32. Plaintiff and the Class members are also entitled to and seek injunctive relief prohibiting such conduct in the future.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests judgment against Defendants for the following:

FIRST CAUSE OF ACTION
Violations of the Telephone Consumer Protection Act
47 U.S.C. §227 et seq.

- As a result of Defendants' violations of 47 U.S.C. §227, et seq., Plaintiff and the Class members are entitled to and request \$500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. 227(c)(5)(B); and
- Any and all other relief that the Court deems just and proper.

Respectfully Submitted this 27th Day of November, 2012.

LAW OFFICES OF TODD M. FRIEDMAN, P.C.

By: s/Todd M. Friedman
Todd M. Friedman
Law Offices of Todd M. Friedman